IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22-11-2007

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN

Writ Petition No.9923 of 1999

K.S.Prasad .. Petitioner.

Versus

1.The Special Tahsildar,
Adi Dravidar Welfare,
Gudiyatham.

2.The District Collector,
Vellore District,
Vellore. .. Respondents.

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus forbearing the respondent from in any manner interfering with the peaceful possession and enjoyment of the petitioner's property of an extent 2.23 cents in Survey No.79/2B Pichanalur Village, Gudiyatham Taluk, Vellore District.

For petitioner : Mr.D.Rajagopal

For respondents : Mr.V.Manoharan
Government Advocate

O R D E R

This writ petition has been filed praying for a writ of mandamus to forbear the respondents from in any manner interfering with the peaceful possession and enjoyment of the petitioner's property in an extent of 2.23 cents in Survey No.79/2B, Pichanalur Village, Gudiyatham Taluk, Vellore District.

2. It is submitted that the petitioner is the owner of the property in S.No.79/2B of Pichanallur Village, measuring about 2.23 acres. The respondent had initiated land acquisition proceedings in respect of the land in S.No.82/1 in the same village and the said acquisition had been challenged by the petitioner before this Court in W.P.No.15451 of 1997, as the said property is a joint family property belonging to the petitioner. Since the respondent had attempted to interfere with the petitioner's peaceful possession and

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enjoyment of his land in S.No.79/2B, without initiating any land acquisition proceedings and since the petitioner is using it as an agricultural land, the present writ petition has been filed seeking for a direction to forbear the respondents from interfering with his peaceful possession and enjoyment of the said property.

3. The learned counsel appearing on behalf of the petitioner had submitted that the petitioner's had not been served with the mandatory notice as prescribed under the provisions of the Tamil Nadu Acquisition of land for Adi Dravidar Welfare Scheme Act, 1978, and the rules framed thereunder and no enquiry has been conducted relating to the acquisition proceedings.

4. In the counter affidavit filed by the first respondent, it is submitted that some Bandayars, who are residing in Gudiyatham Town, had applied for provision of house sites to them. Therefore, the necessary land acquisition proceedings had been initiated, with regard to the petitioner's land in S.No.92/2, in accordance with the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978 (Tamil Nadu Act 31/78). It has been further stated that since the land owners are residing at Tirupattur and Chennai, Form I notice could not be served on them and therefore, the said notice was pasted on a stick and kept in the field after the beating of tom tom. The land owners had not appeared for the enquiry conducted on 29.1.1996. The District Collector, Vellore District, had approved the proposal and ordered to publish the 4(1) Notification in the Vellore District Gazette. Accordingly, the notification had been published in the Vellore District Gazette, Extraordinary, dated 4.3.97. After getting the valuation approved by the Collector of Vellore District, the award enquiry notice in Form III, under Section 7(1) of the Tamil Nadu Acquisition of land for Adi Dravidar Welfare Scheme Act, 1978 , was issued to the land owners, on 19.3.1997, to putforth their objections, if any, for the proposed acquisition and for an enquiry on 27.3.1997. Thereafter, since the petitioner had not turned up for the enquiry, the award was passed in proceedings No.18/96-97, dated 27.3.1997, and the compensation amount of Rs.1,34,429/- was ordered to be deposited in the Sub-Court, Vellore.

5. It has also been submitted that the possession of the acquired land has been taken by the Special Revenue Inspector (Adi Dravidar Welfare), on behalf of the Government of Tamilnadu, on 4.4.97. Thereafter, layout has been prepared and approved and the pattas have been issued to the beneficiaries, on 20.12.1998.

6. It is well settled that the State can acquire the lands, as required, in accordance with the procedures established by law, invoking the principle of `Eminent Domain'. Therefore, the petitioner is not entitled to invoke the writ jurisdiction of this Court, praying for a writ of mandamus, under Article 226 of the Constitution of India, at this stage.

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7. Based on the contentions raised on behalf of the parties concerned and on a perusal of the records available, this Court is of the considered view that the petitioner has not shown sufficient cause or reason to grant the relief as prayed for in the writ petition.

Therefore, this writ petition stands dismissed. No costs.

csh

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

To

1.The Special Tahsildar,
Adi Dravidar Welfare,
Gudiyatham.

2.The District Collector,
Vellore District,
Vellore.

1 cc to M/s.D.Rajagopal, Advocate, SR.70051
1 cc to The Government Pleader, SR.69484

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dv/14.12.

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